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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/657,118	09/09/2003	Hiroyuki Yokoi	242232US0CONT	9226
22850	7590 06/06/2006		EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			GABEL, GAILENE	
	1940 DUKE STREET ALEXANDRIA, VA 22314		ART UNIT	PAPER NUMBER
			1641	
		DATE MAILED: 06/06/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)		
	10/657,118	YOKOI, HIROYUKI		
Office Action Summary	Examiner	Art Unit		
	Gailene R. Gabel	1641		
The MAILING DATE of this communication a Period for Reply	ppears on the cover sheet with the c	correspondence address		
A SHORTENED STATUTORY PERIOD FOR REF WHICHEVER IS LONGER, FROM THE MAILING - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication If NO period for reply is specified above, the maximum statutory perions - Failure to reply within the set or extended period for reply will, by state Any reply received by the Office later than three months after the material patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION  1.136(a). In no event, however, may a reply be tired will apply and will expire SIX (6) MONTHS from tute, cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).		
Status				
1) Responsive to communication(s) filed on <u>09</u> 2a) This action is <b>FINAL</b> . 2b) The solution of the second transfer and the practice under the practice under the practice under the practice.	nis action is non-final. vance except for formal matters, pro			
Disposition of Claims				
4) ⊠ Claim(s) <u>1-16</u> is/are pending in the application 4a) Of the above claim(s) is/are withdress 5) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are objected to. 8) ⊠ Claim(s) <u>1-16</u> are subject to restriction and/or	rawn from consideration.			
Application Papers				
9) The specification is objected to by the Exami 10) The drawing(s) filed on is/are: a) a Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the	ccepted or b) objected to by the ne drawing(s) be held in abeyance. Se ection is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).		
Priority under 35 U.S.C. § 119				
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>				
Attachment(s)  1) Notice of References Cited (PTO-892)	4) 🔲 Interview Summary	· (PTO-413)		
<ul> <li>2) Notice of References Cited (PTO-052)</li> <li>3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/0 Paper No(s)/Mail Date</li> </ul>	Paper No(s)/Mail D			

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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 1-11, 15, and 16, drawn to method of measuring an analyte contained in a heterogeneous sample mixture and kit therefor, classified in class 436, subclass 172, for example.
  - II. Claims 12-16, drawn to method of measuring an analyte contained in a sample subjected to dilution and separation procedures and kit therefor, classified in class 435, subclass 7.1, for example.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are independent and distinct. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different effects in that Invention I incorporates all reagents with sample to form a reaction system that does not require separation of complexes to measure amount of analyte whereas Invention II dilutes the sample, incorporates all reagents with sample to form a reaction system which is subsequently separated in order to measure amount of analyte present in the sample.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction

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for examination purposes as indicated is proper. Furthermore, because the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper. Literature search for each method is distinct since the structural requirements of each invention are different. While searches would be expected to overlap, there is no reason to expect the searches to be coextensive.

- 2. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gailene R. Gabel whose telephone number is (571) 272-0820. The examiner can normally be reached on Monday, Tuesday, Thursday from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gailene R. Gabel Patent Examiner Art Unit 1641 May 26, 2006